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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-542**

12 **JACQUELINE SUE GARMON**  
3110 Campfire Drive  
13 Bakersfield, CA 93312

**ACCUSATION**

14 Registered Nurse License No. 636409

15 Respondent.  
16

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs (Board).

22 2. On or about April 22, 2004, the Board issued Registered Nurse License No. 636409  
23 to Jacqueline Sue Garmon (Respondent). The Registered Nurse License was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on August 31, 2011,  
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

**STATUTORY PROVISIONS**

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.

8. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, . . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

. . . .

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

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9. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

• • • •

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof. . . ."

## REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1444 states, in pertinent part:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . .”

### COST RECOVERY

11. Section 125.3 provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Convictions of Substantially Related Crimes)

3 12. Respondent is subject to disciplinary action under sections 490 and 2761,  
4 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that  
5 Respondent was convicted of a crimes substantially related to the functions or duties of a  
6 registered nurse which to a substantial degree evidence her present or potential unfitness as a  
7 registered nurse to practice in a manner consistent with the public health, safety, or welfare. The  
8 circumstances of the conviction are as follows:

9 a. On or about April 9, 2009, after pleading nolo contendere, Respondent was convicted  
10 of one misdemeanor count of violating Vehicle Code section 23152(b) [driving with a 0.08% or  
11 mor BAC], and she admitted to a prior conviction of 23152(a) [driving while under the influence  
12 of alcohol], in the criminal proceeding entitled *The People of the State of California v. Jacqueline*  
13 *Sue Garmon* (Super. Ct. San Luis Obispo County, 2008, No. M000423006). The Court sentenced  
14 Respondent to one (1) day in jail, placed her on three (3) years of probation, and ordered her to  
15 complete a Second Offender DWI Program. The circumstances underlying the conviction are  
16 that on or about September 4, 2008, Respondent drove a vehicle while having a tested 0.15%  
17 blood alcohol.

18 b. On or about October 28, 2005, after pleading nolo contendere, Respondent was  
19 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving while  
20 under the influence of alcohol] in the criminal proceeding *The People of the State of California v.*  
21 *Jacqueline Sue Garmon* (Super. Ct. Kern County, 2005, No. BM676740A). The Court sentenced  
22 Respondent to two (2) days in jail, placed her on three (3) years of probation, and ordered her to  
23 attend a 3-month Alcohol Education program. The circumstances underlying the conviction are  
24 that on or about July 7, 2005, Respondent while under the influence of alcohol was driving her  
25 vehicle and was involved in a two (2) car traffic collision.

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1                                   **SECOND CAUSE FOR DISCIPLINE**

2                                   **(Alcohol Related Convictions)**

3           13. Respondent is subject to disciplinary action under sections 2761, subdivision (a),  
4 and 2762, subdivision (c), on the grounds of unprofessional conduct, in that Respondent was  
5 convicted of criminal offenses involving alcohol. Complainant refers to and by this reference  
6 incorporates the allegations set forth above in paragraph 12, subdivisions a and b, inclusive, as  
7 though set forth fully.

8                                   **THIRD CAUSE FOR DISCIPLINE**

9                                   **(Dangerous Use of Alcoholic Beverages)**

10          14. Respondent is subject to disciplinary action under sections 2761, subdivision (a),  
11 and 2762, subdivision (b), on the grounds of unprofessional conduct, in that Respondent used  
12 alcoholic beverages to an extent or in a manner dangerous or injurious to herself and others and /  
13 or to the extent that such use impairs her ability to conduct with safety to the public the practice  
14 authorized by her license. Complainant refers to and by this reference incorporates the  
15 allegations set forth above in paragraphs 12 - 13, inclusive, as though set forth fully.

16                                   **FOURTH CAUSE FOR DISCIPLINE**

17                                   **(Substantially Related Acts of Unprofessional Conduct)**

18          15. Respondent is subject to disciplinary action under sections 2761, subdivisions (a)  
19 and (d), in that Respondent committed acts of unprofessional conduct substantially related to the  
20 functions or duties of a registered nurse which to a substantial degree evidence her present or  
21 potential unfitness as a registered nurse to practice in a manner consistent with the public health,  
22 safety, or welfare. Complainant refers to and by this reference incorporates the allegations set  
23 forth above in paragraphs 12 - 14, inclusive, as though set forth fully.

24                                   **PRAYER**

25          WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
26 and that following the hearing, the Board issue a decision:

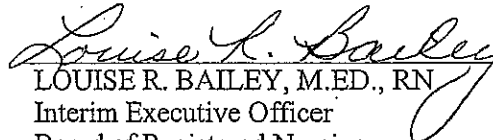
27          1. Revoking or suspending Registered Nurse License No. 636409, issued to Jacqueline  
28 Respondent;

1           2.    Ordering Respondent to pay the Board the reasonable costs of the investigation and  
2 enforcement of this case, pursuant to section 125.3; and

3           3.    Taking such other and further action as deemed necessary and proper.  
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7 DATED: \_\_\_\_\_

4/23/10

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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